



## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[222A2100DD/AABB003600/A0T902020.253G]

### Kaw Nation Alcohol Ordinance of 2019; Repeal and Replace

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Kaw Nation Alcohol Ordinance of 2019 which repeals and replaces the Kaw Nation Alcohol Control Ordinance previously published in the *Federal Register* and any and all previous statutes. The Kaw Nation Alcohol Ordinance of 2019 regulates and controls the possession, sale, manufacture, and distribution of liquor on the Kaw Nation trust lands in conformity with the Federal laws and of the State of Oklahoma where applicable and necessary. The enactment of this Ordinance will provide an important source of tax revenue for the continued operation and strengthening the Kaw Nation government and the delivery of tribal government services and, the economic viability of tribal enterprises.

**DATES:** This ordinance shall take effect on [Insert date 30 days after publication in the FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Ms. Sherry Lovin, Tribal Government Officer, Southern Plains Regional Office, Bureau of Indian Affairs, Post Office Box 368, Anadarko, Oklahoma 73005, Telephone: (405) 247-1534 or (405) 247-6673, Fax: (405) 247-9240.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 USC 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the *Federal Register* notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian Country.

On April 13, 2018, the Kaw Nation Tribal Council duly adopted the Kaw Nation Alcohol Ordinance of 2019 by Resolution 19-37, which will repeal, upon its effective date, the Kaw Nation Alcohol Control Ordinance, which was published in the *Federal Register* on July 31, 2009 at 74 FR 38220. Although, the Kaw Nation Alcohol Ordinance of 2019 was adopted by the Kaw Nation Tribal Council on April 13, 2019, it does not become effective until published in the *Federal Register*.

This notice is published in accordance with the delegated authority by the Secretary of the Interior to the Assistant Secretary – Indian Affairs. I certify that the Kaw Nation Tribal Council duly adopted the Kaw Nation Alcohol Ordinance of 2019 by Resolution No. 19-37 on April 13, 2019.

**Bryan Newland,**

*Assistant Secretary – Indian Affairs.*

## **KAW NATION ALCOHOL ORDINANCE OF 2019**

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## **ARTICLE I- INTRODUCTION**

### **Section 1.1 Title.**

This Ordinance shall be known as the “Kaw Nation Alcohol Ordinance of 2019” (the “Ordinance”). This Ordinance and Act amends and supercedes all prior laws of the Kaw Nation pertaining to Alcohol including the Kaw Nation Alcohol Control Ordinance, Fed. Reg. Vol. 74, No. 146, 38, 220-38.227.

### **Section 1.2 Authority.**

This Ordinance is enacted pursuant to the Act of August 15, 1953. Pub. L. 83-277, 67 Stat. 586, 18 U.S.C. § 1161 and Article II, § 4 of the Constitution of the Kaw Nation (hereinafter “Nation” or “Tribe”).

### **Section 1.3 Purpose.**

The purpose of this Ordinance is to regulate and control the manufacture, distribution, possession, and Sale of Alcoholic Beverages on Tribal Lands of the Kaw Nation, and to generate revenues to fund necessary Tribal programs and services. The enactment of this Ordinance will enhance the ability of the Kaw Nation to control all such Alcohol-related activities within the jurisdiction of the Tribe and will provide an important source of revenue for the continued operation and strengthening of the Kaw Nation and the delivery of important governmental services.

### **Section 1.4 Application of Federal law.**

Federal law forbids the introduction, possession and Sale of liquor in Indian Country (18 U.S.C. § 1154 and other statutes), except when in conformity both with the laws of the State and the Tribe (18 U.S.C. § 1161). As such, compliance with this Ordinance shall be in addition to, and not a substitute for, compliance with the laws of the State of Oklahoma.

### **Section 1.5 Administration of Ordinance.**

The Tribal Council, through its powers vested under Article II, § 4 of the Constitution of the Kaw Nation and this Ordinance, delegates to the Alcohol Regulatory Authority the authority

to exercise all of the powers and accomplish all of the purposes set forth in this Ordinance, which may include, but are not limited to, the following actions:

- A. Adopt and enforce rules and regulations for the purpose of effectuating this Ordinance, which includes the setting of fees, fines and other penalties;
- B. Execute all necessary documents; and
- C. Perform all matters and actions incidental and necessary to conduct its business and carry out its duties and functions under this Ordinance.

**Section 1.6 Sovereign Immunity Preserved.**

- A. The Tribe is immune from suit in any jurisdiction except to the extent that the Tribal Council of the Kaw Nation expressly and unequivocally waives such immunity by approval of such written resolution.
- B. Nothing in this Ordinance shall be construed as waiving the sovereign immunity of the Kaw Nation or the Alcohol Regulatory Authority as an agency of the Kaw Nation.

**Section 1.7 Applicability.**

This Ordinance shall apply to all Tribal and commercial enterprises located within Tribal Lands consistent with applicable Federal Liquor Laws.

**Section 1.8 Computation of Time.**

Unless otherwise provided in this Ordinance, in computing any period of time prescribed or allowed by this Ordinance, the day of the act, event, or default from which the designated period time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. For the purposes of this Ordinance,

the term “legal holiday” shall mean all legal holidays under Tribal or Federal law. All documents mailed shall be deemed served at the time of mailing.

**Section 1.9    Liberal Construction.**

Provisions of this Ordinance shall be liberally construed to achieve the purposes set forth, whether clearly stated or apparent from the context of the language used herein.

**Section 1.10   Collection of Applicable Fees, Taxes, or Fines.**

The Alcohol Regulatory Authority shall have the authority to collect all applicable and lawful fees, taxes, and or fines from any person or Licensee as imposed by this Ordinance. The failure of any Licensee to deliver applicable taxes collected on the Sale of Alcoholic Beverages shall subject the Licensee to penalties, including, but not limited to, the revocation of said License.

**ARTICLE II- DECLARATION OF PUBLIC POLICY**

**Section 2.1    Matter of Special Interest.**

The manufacture, distribution, possession, Sale, and consumption of Alcoholic Beverages within the jurisdiction of the Kaw Nation are matters of significant concern and special interest to the Tribe. The Tribal Council hereby declares that the policy of the Kaw Nation is to eliminate the problems associated with unlicensed, unregulated, and unlawful importation, distribution, manufacture, possession and Sale of Alcoholic Beverages for commercial purposes and to promote temperance in the use and consumption of Alcoholic Beverages by increasing the Tribe's control over such activities on Tribal lands.

**Section 2.2    Federal Law.**

The introduction of Alcohol within the jurisdiction of the Tribe is currently prohibited by Federal law (18 U.S.C. § 1154), except as provided for therein, and the Tribe is expressly delegated the right to determine when and under what conditions Alcohol, including Alcoholic Beverages, shall be permitted thereon (18 U.S.C. § 1161).



### **Section 2.3 Need for Regulation.**

The Tribe finds that the Federal Liquor Laws prohibiting the introduction, manufacture, distribution, possession, Sale, and consumption of Alcoholic Beverages within the Tribal lands have proven ineffective and that the problems associated with same should be addressed by the laws of the Tribe, with all such business activities related thereto subject to the taxing and regulatory authority of the Alcohol Regulatory Authority.

### **Section 2.4 Geographic Locations.**

The Tribe finds that the introduction, manufacture, distribution, possession, Sale, and consumption of Alcohol, including Alcoholic Beverages, shall be regulated under this Ordinance only where such activity will be conducted within or upon Tribal Lands.

### **Section 2.5 Definitions.**

Unless otherwise required by the context, the following words and phrases shall have the designated meanings:

- A. "Alcohol" means and includes hydrated oxide of ethyl, ethyl Alcohol, ethanol, or Spirits of Wine, from whatever source or by whatever process produced. It does not include wood Alcohol or Alcohol which has been denatured or produced as denatured in accordance with Acts of Congress and regulations promulgated thereunder.
- B. "Alcohol Regulatory Authority" means the Kaw Tax Commission pursuant to Resolution No. 09-69 enacted by the Tribal Council on August 14, 2009.
- C. "Alcoholic Beverage(s)" means Alcohol, Spirits, Beer and Wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing Alcohol, Spirits, Wine or Beer and capable of being consumed as a Beverage by human beings.

- D. "Applicant" means any individual, legal or commercial business entity, or any individual involved in any legal or commercial business entity allowed to hold any License under the laws of the Kaw Nation.
- E. "Beer" means any Beverage of Alcohol by volume and obtained by the Alcoholic fermentation of an infusion or decoction of barley, or other grain, malt or similar products. "Beer" may or may not contain hops or other vegetable products. "Beer" includes, among other things, Beer, ale, stout, lager Beer, porter and other malt or brewed liquors, but does not include sake, known as Japanese rice Wine.
- F. "Cider" means any Alcoholic Beverage obtained by the Alcoholic fermentation of fruit juice, including but not limited to flavored, sparkling or carbonated cider.
- G. "Citizen" or "Enrolled Member" means any person whose name appears on the official roll of the Kaw Nation.
- H. "Commercial Sale" means the transfer, exchange or barter, in any way or by any means whatsoever, for a consideration by any person, association, partnership, or corporation, of Alcoholic Beverages.
- I. "Constitution" means the Constitution of the Kaw Nation.
- J. "Federal Liquor Laws" means all laws of the United States of America that apply to or regulate in any way the introduction, manufacture, distribution, possession, or Sale of any form of Alcohol, including, but not limited to 18 U.S.C. §§ 1154 & 1161.

- K. "Legal Age" means twenty-one (21) years of age.
- L. "License" or "Alcoholic Beverage License" means a License issued by the Alcohol Regulatory Authority authorizing the introduction, manufacture, distribution, or Sale of Alcoholic Beverages for commercial purposes under the provisions of the this Ordinance.
- M. "Licensee" means any person holding a License under the laws of the Kaw Nation, and any agent, servant or employee of such Licensee while in the performance of any act or duty in connection with the Licensed business or on the Licensed Premises.
- N. "Liquor Store" means any business, store, or commercial establishment at which Alcohol is sold and shall include any and all businesses, facilities and events engaged in the Sale of Alcoholic Beverages, whether sold as packaged or by the drink.
- O. "Manufacturer" means a brewer, distiller, Winemaker, rectifier or bottler of any Alcoholic Beverage and its subsidiaries, affiliates and parent companies.
- P. "Mixed Beverage Cooler" or "Wine Cooler" means any Beverage, by whatever name designated, consisting of an Alcoholic Beverage and fruit or vegetable juice, fruit or vegetable flavorings, dairy products or carbonated water containing more than one-half of one percent ( $\frac{1}{2}$  of 1%) of Alcohol measured by volume but not more than seven percent (7%) Alcohol by volume at sixty (60) degrees Fahrenheit and which is packaged in a container not larger than three hundred seventy-five (375) milliliters. Such term shall include but not be limited to the Beverage popularly known as a "Wine cooler."

- Q. "Operator" means a person properly Licensed by the Kaw Nation to operate a facility, event, or otherwise that is engaged in the activity of selling Alcoholic Beverages.
- R. "Ordinance" means this Kaw Nation Alcohol Ordinance of 2018, as amended from time to time pursuant to Resolution of the Kaw Nation Tribal Council.
- S. "Package" or "Packaged" or "Package Store" means the Sale of any Alcoholic Beverage by delivery of same by a seller to a purchaser in any container, bag, or receptacle for consumption off the Premises or location designated on the seller's License.
- T. "Person" means an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity.
- U. "Premises" means the grounds and all buildings and appurtenances pertaining to the grounds including any adjacent Premises if under the direct or indirect control of the Licensee and used in connection with or in furtherance of the business covered by a License. Provided that the Alcoholic Beverage Laws Enforcement Commission of the State of Oklahoma ("ABLE Commission" or "ABLE") shall have the authority to designate areas to be excluded from the Licensed Premises solely for the purpose of:
1. allowing the presence and consumption of Alcoholic Beverages by private parties which are closed to the general public, or
  2. allowing the services of a caterer serving Alcoholic Beverages provided by a private party.

This exception shall in no way limit the Licensee's concurrent responsibility for any violations of the Oklahoma Alcoholic Beverage Control Act and/or the Kaw Nation Alcohol Control Ordinance occurring on the Licensed Premises.

V. "Public Place" or "Public Forum" means and shall include any Tribal, county, State, or Federal highways, roads, and rights-of-way; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; public restaurants, buildings, meeting halls, hotels, theaters, retail stores, and business establishments generally open to the public and to which the public is allowed to have unrestricted access; and all other places to which the general public has unrestricted right of access and that are generally used by the public. For the purpose of this Ordinance, "Public Place" or "Public Forum" shall also include any privately-owned business property or establishment that is designed for, or may be regularly used by, more persons other than the owner of the same, but shall not include the private, family residence of any person.

W. "Regulation(s)" means any Regulation(s) adopted by the Alcohol Regulatory Authority to further the purposes and intent of this Ordinance that comply with Federal and State law as approved by Tribal Council.

X. "Relative" means either a biological or adopted parent, spouse, child, step-child, foster child, grandchild, sibling, grandparent, great-grandparent, aunt, uncle, and in-law parental, sibling, or child relationships.

- Y. "Retailer" means a Package Store, grocery store, convenience store or drug store Licensed to sell Alcoholic Beverages for off-premise consumption pursuant to a Retail Spirits License, Retail Wine License or Retail Beer License.
- Z. "Sale(s)", "Sell", or "Sold" means any transfer, exchange or barter of Alcoholic Beverages in any manner or by any means whatsoever, and includes and means all Sales made by any person, whether as principal, proprietor or as an agent, servant or employee. The term "Sale" is also declared to be and include the use or consumption upon Tribal Lands of any Alcoholic Beverage obtained within or imported from without this State, upon which the excise tax levied by the Oklahoma Alcoholic Beverage Control Act and/or Kaw Nation has not been paid or exempted.
- AA. "Sparkling Wine" means champagne or any artificially carbonated Wine.
- BB. "Tribal Council" means the duly elected legislative body of the Kaw Nation authorized to act in and on all matters and subjects upon which the Tribe is empowered to act, now or in the future, pursuant to Article V, Section 2 of the Constitution of the Kaw Nation.
- CC. "Tribal Court" means the Courts of the Kaw Nation, as established under the Constitution of the Kaw Nation, Article VIII, §1.
- DD. "Tribal Land(s)" means and reference the geographic area that includes all land included within the definition of "Indian Country" as established and described by Federal law and that is under the jurisdiction of the Kaw Nation, including, but not limited to all lands held in trust by the Federal government, located within the same, as are now in existence or may hereafter be added to, and all Tribally owned land and waters and all restricted or trust land

belonging to Tribal members within the boundary of the Kaw Nation reservation established by Agreement dated June 26, 1890, and ratified by the Act of March 3, 1891 (26 Stat. 1019), and such other land, or, interest in land, which may be subsequently acquired.

EE. “Tribal Law” means the Constitution of the Kaw Nation and all laws, ordinances, codes, resolutions, and regulations now and hereafter duly enacted by the Tribe.

FF. “Tribe” means the Kaw Nation.

GG. "Wholesale Price" means the established price for which Alcohol and/or Beer products are sold to the Kaw Nation or to any Licensed Licensee by the Manufacturer or distributor, exclusive of any discount or other reduction.

HH. “Wine” means and includes any Beverage containing more than one-half of one percent (1/2 of 1%) Alcohol by volume and not more than twenty-four percent (24%) Alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice Wine.

### **ARTICLE III- SALES OF ALCOHOLIC BEVERAGES**

#### **Section 3.1 Prohibition of the Unlicensed Sale of Alcoholic Beverages.**

This Ordinance prohibits the introduction, manufacture, distribution, or Sale of Alcoholic Beverages for commercial purposes, other than where conducted by a Licensee in possession of a lawfully issued License in accordance with this Ordinance. The Federal Liquor Laws are intended to remain applicable to any act or transaction that is not authorized by this Ordinance,

and violators shall be subject to all penalties and provisions of any and all Federal and or Tribal laws.

### **Section 3.2 Sales for Cash.**

All Sales of Alcoholic Beverages conducted by any person or commercial enterprise upon Tribal Lands shall require payment at the time of purchase and consumption of same shall be extended to any person, organization, or entity, except that this provision does not prohibit the payment of same by use of credit cards acceptable to the seller.

### **Section 3.3 Personal Consumption.**

All Sales of Alcoholic Beverages shall be for the personal use and consumption of the purchaser and or his/her guest(s) of Legal Age. The re-Sale of any Alcoholic Beverage purchased within or upon Tribal Lands by any person or commercial enterprise not Licensed as required by this Ordinance is prohibited.

### **Section 3.4 Tribal Enterprises.**

No employee or Operator of a commercial enterprise owned by the Tribe shall sell or permit any person to open or consume any Alcoholic Beverage on any Premises or location, or any Premises adjacent thereto, under his or her control, unless such activity is properly Licensed as provided in this Ordinance.

### **Section 3.5 Right of Alcohol Regulatory Authority to Scrutinize Licenses.**

Every Licensee shall keep the Alcohol Regulatory Authority informed in writing of the identity of Manufacturers, suppliers and/or Wholesalers who supply or are expected to supply Alcohol to their Licensed Premises. The Alcohol Regulatory Authority may, at its discretion, for any reasonable cause, limit or prohibit the purchase of said Alcohol from a supplier or Wholesaler.

### **Section 3.6 Freedom of Information from Manufacturers, Suppliers, and Wholesalers.**

Licensees shall in their purchase of Alcohol and in their business relationships with Manufacturers, suppliers, and Wholesalers ("Third Party(ies)") cooperate with and assist the free



flow of information and data to the Alcohol Regulatory Authority from such suppliers relating to the Sales to and business arrangements between the Third Parties and the Licensees. The Alcohol Regulatory Authority may, in its discretion, require from the Licensee and Third Parties all receipts, invoices, bills of lading, other billings or other documentary receipts of Sales to any Licensee. Such records shall be available for inspection by the Alcohol Regulatory Authority upon reasonable request.

### **Section 3.7 Alcohol Regulatory Authority Retail Sales Regulations.**

The Alcohol Regulatory Authority may adopt Regulations regarding the retail Sale of Alcohol which shall supplement this Ordinance and facilitate its enforcement. These Regulations may include limitations on hours and days when Premises may be open for business, and other appropriate matters and controls.

### **Section 3.8 Sales to Minors.**

No person shall give, sell or otherwise supply Alcoholic Beverages to any person under the Legal Age of twenty-one (21), either for his or her own use or for the use of his or her parents or for the use of any other person.

### **Section 3.9 Consumption of Alcohol upon Licensed Premises.**

Only a Licensee with the appropriate type of License issued by the Alcohol Regulatory Authority shall allow any person to open or consume Alcohol on his or her Premises or any Premises adjacent thereto in his or her control.

### **Section 3.10 Conduct on Licensed Premises.**

- A. No Licensee shall allow any person to be disorderly, boisterous or intoxicated on their Licensed Premises or on any Public Place adjacent thereto which are under his or her control.
- B. No Licensee or employee shall consume Alcohol of any kind while working on the Licensed Premises.

C. No Licensee shall knowingly sell, deliver, or furnish Alcoholic Beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient.

**Section 3.11 Employment of Minors.**

Employees under the Legal Age of twenty-one (21) may only sell or handle Alcohol while under the direct supervision of another employee who is twenty-one (21) years of age or older. Only employees who are twenty-one (21) years of age or older, may serve Alcoholic Beverages in a bar or lounge area where the Alcoholic Beverages are intended for on-site consumption. Employees participating in selling, mixing, or serving Alcoholic Beverages must have an Alcoholic Beverage License.

**Section 3.12 Display of License.**

Any Licensee issued a License shall visually display the License at all times on the Premises specified in the application for such License.

**Section 3.13 Licensed Premises Open to Alcohol Regulatory Authority Inspection.**

The Premises of all Licensees, including vehicles used in connection with Alcohol Sales, shall be open at all times to inspection by the Alcohol Regulatory Authority or its designated representative.

**Section 3.14 Licensee's Records.**

The originals or copies of all Sales slips, invoices, and other memoranda covering all purchases of Alcohol by Licensees shall be kept on file in the Licensed Premises of the Licensee purchasing the same for at least three (3) years after each purchase and shall be filed separately and kept apart from all other records and, as nearly as possible, shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and checking. All cancelled checks, bank statements and books of accounting covering or involving the purchase of Alcohol, and all memoranda, if any, showing payment of

money for Alcohol other than by check, shall be likewise preserved for availability for inspection and checking.

### **Section 3.15 Records Confidential.**

All records of the Alcohol Regulatory Authority showing purchase of Alcohol by any individual or group shall be confidential and shall not be inspected except by members of the Alcohol Regulatory Authority or its authorized representative.

### **Section 3.16 Conformity with Federal and State Law.**

Licensees shall comply with the laws and regulations of the State of Oklahoma related to Alcohol to the extent required by 18 USC §1161. Licensees are subject to all of the enumerated prohibited acts contained in Title 37A of the Oklahoma Statutes, and failure of the Licensee to observe such laws will subject said Licensee to Federal prosecution under 18 USC §1181.

## **ARTICLE IV- LICENSING**

### **Section 4.1 License Required.**

- A. Any and all Sales of Alcoholic Beverages conducted upon Tribal Lands shall be permitted only where the seller (i) holds a current Alcoholic Beverage License, duly issued by the Alcohol Regulatory Authority; and (ii) prominently and conspicuously displays the License on the Premises or location designated on the License.
- B. A Licensee has the right to engage only in those activities involving Alcoholic Beverage(s) expressly authorized by such License in accordance with this Ordinance.

### **Section 4.2 Licensing Procedures.**

The Alcohol Regulatory Authority shall have authority over the licensing of all persons related to the Sale of Alcohol within the Tribal Lands. The Alcohol Regulatory Authority is empowered to administer this Ordinance by exercising general control, management, and supervision of all Alcoholic Beverage Sales, places of Sale and Sales Premises, as well as exercising all powers necessary to accomplish the purposes of this Ordinance, and adopting and

enforcing any additional rules and policies in furtherance of the purposes of this Ordinance and in the performance of its administrative functions as provided herein.

A. Eligibility. Any person may apply to the Alcohol Regulatory Authority for a License as provided herein. Only Applicants operating upon Tribal Lands shall be eligible to receive a License for the Sale of Alcohol upon Tribal Lands pursuant to this Ordinance.

B. Application Process.

1. Application Form. An application for any License shall be made to the Alcohol Regulatory Authority on the appropriate form for such License as provided by the Alcohol Regulatory Authority.

2. Payment of Fees. Each application shall be accompanied by a non-refundable application fee as specified herein. All application fees paid to the Alcohol Regulatory Authority are nonrefundable upon submission of any such application. Each application shall require the payment of a separate application fee. Following approval of an application, but prior to issuance of the License, the Applicant shall pay the appropriate nonrefundable License fee to the Alcohol Regulatory Authority. Each License or renewal shall require the payment of a separate License fee or renewal fee.

3. Processing of Application. The Alcohol Regulatory Authority shall receive and process applications, and shall be the official representative of the Tribe and Tribal Council in matters relating to Alcohol, licensing related to Alcohol and the collection of taxes on Alcohol and any matters related to Alcohol. The Alcohol Regulatory Authority, or its authorized representative, shall order any Applicant to

provide all additional information as deemed necessary for processing, reviewing or revoking an application or License. If the Alcohol Regulatory Authority, or its authorized representative, is satisfied that the Applicant is a suitable and reputable person, the Alcohol Regulatory Authority, or its authorized representative, may issue a License as provided herein.

4. Investigation. Upon receipt of an application for the issuance, transfer, or renewal of a License, the Alcohol Regulatory Authority shall make a thorough investigation to determine whether the Applicant and the Premises or location for which a License is applied for qualifies for a License, and whether the provisions of this Ordinance have been complied with. The Alcohol Regulatory Authority shall investigate all matters connected therewith which may affect the public health, welfare, and morals.
5. Approval and Disapproval. The Alcohol Regulatory Authority will be responsible for approval or disapproval of all Applications. The Alcohol Regulatory Authority may cause a License to be issued to any Applicant it may deem appropriate, but not contrary to the best interests of the Tribe and its Tribal members. Any Applicant that desires to receive any Alcoholic Beverage License, and that meets the eligibility requirements pursuant to this Ordinance, must apply to the Alcohol Regulatory Authority for the desired class of License. Any such person as may be empowered to make such application, shall:
  - a. fully and accurately complete the application provided by the Alcohol Regulatory Authority;

- b. pay the Alcohol Regulatory Authority such application fee as may be required; and
- c. submit such application to the Alcohol Regulatory Authority for consideration.

6. Restrictions:

- a. No License for on-site consumption on the Premises shall be issued for a business within 300 feet of a licensed school or licensed child care facility;
- b. No License shall be issued to a convicted felon.

7. Temporary Denial. If the application is denied solely on the basis of failing to complete the application properly or tendering the appropriate fee, the Alcohol Regulatory Authority shall, within fifteen (15) calendar days of such action, deliver in person or by mail a written notice of temporary denial to the Applicant. Such notice of temporary denial shall: (i) set forth the reason(s) for denial; and (ii) State that the temporary denial will become a permanent denial if the reason(s) for denial are not corrected within fifteen (15) calendar days following the mailing or personal delivery of such notice unless otherwise extended by the Alcohol Regulatory Authority.

8. Denial of License or Renewal. An application for a new License or License renewal may be denied for one or more of the following reasons:

- a. The Applicant materially misrepresented facts contained in the application;
- b. The Applicant is currently not in compliance with these Regulations, this Ordinance, or any other Tribal, County, State or Federal laws;
- c. Granting of the License, or renewal thereof, would create a threat to the peace, safety, morals, health, or welfare of the Tribe;
- d. The Applicant has failed to complete the application properly or has failed to tender the appropriate fee; or
- e. A verdict or judgment has been entered against, or a plea of nolo contendere has been entered by the Applicant or by any Applicants' officer, director, manager, or any other employee with primary management responsibility related to the Sale of Alcoholic Beverages, to any offense under Tribal, Federal, County, or State laws prohibiting or regulating the Sale, use, possession or giving away of Alcoholic Beverages.

9. Cure. If an Applicant is denied a License, the Applicant may cure the deficiency and resubmit the application for consideration. Each re-submission will be treated as a new application for License or renewal of a License, and the appropriate fee shall be due upon re-submission.

10. Procedures for Appealing a Denial or Condition of Application. Any Applicant for a License or Licensee who believes the denial of their License, request for renewal, or condition imposed on their License was wrongfully determined may appeal the decision of the Alcohol Regulatory Authority in accordance with this Ordinance Section 4.3. The Alcohol Regulatory Authority's decision on the appeal shall be considered a final decision by the Kaw Nation and shall only be appealable to the Kaw Nation Tribal Court.

11. Issuance of Licenses and Renewal Licenses. Upon approval of an application and payment of the appropriate renewal License fee, the Alcohol Regulatory Authority shall issue the Applicant such License as specified in the application that will be valid from the date of issuance until December 31 of that year. Licenses shall be renewable at the discretion of the Alcohol Regulatory Authority by submission by the Licensee of a subsequent renewal application form, subsequent application fee, and payment of the renewal License fee as adopted by the Alcohol Regulatory Authority in accord this Ordinance. Renewal Licenses shall be effective as of January 1 and shall be valid until December 31 of that year. Any License or Renewal License issued under this Ordinance shall not be transferable.

12. Final Authority. The Alcohol Regulatory Authority has full power and final authority to deny any Applicant for any of the above and/or for any other reason where it would be to the detriment of the Tribe.

C. Term and Renewal of Licenses.

1. The term of all Licenses issued under this Ordinance shall be for a period not to exceed one (1) year from the original date of issuance and may be renewed



thereafter on a year-to-year basis, in compliance with this Ordinance and any rules and/or policies hereafter adopted by the Alcohol Regulatory Authority. Every License shall expire on December 31 following its issuance or renewal, and each Licensee shall be eligible for subsequent renewal terms of one (1) year beginning on the January 1 following each expiration.

2. Each License may be considered for renewal by the Alcohol Regulatory Authority annually upon the Licensee's submission of a new application and payment of all fees. Such renewal application shall be submitted to the Alcohol Regulatory Authority at least twenty (20) days and no more than ninety (90) days prior to the expiration of an existing License. If a License is not renewed prior to its expiration, the Licensee shall cease and desist all activity previously authorized under the License, including the Sale of any Alcoholic Beverages, until the renewal of such License is properly approved by the Alcohol Regulatory Authority.

#### **Section 4.3 Appeals to the Alcohol Regulatory Authority for Denial of License.**

Upon receipt of an appeal of a denial of a License, the Alcohol Regulatory Authority shall set the consideration of such appeal for a public hearing. Notice of the time and place of such hearing shall be mailed to the Applicant and provided to the public at least twenty (20) calendar days before the date of the hearing. Notice shall be mailed to the Applicant by prepaid U.S. mail at the address listed in the application. Notice shall be provided to the public in the same method as used to notify the public of meetings pursuant to the Kaw Nation Constitution. The public notice shall include:

- A. the name of the Applicant;
- B. whether the hearing will consider a new License issuance or renewal of an existing License;

C. the class of License applied for; and

D. an address and general description of the area where the Alcoholic Beverages will be or have been sold.

At such hearings, the Alcohol Regulatory Authority shall hear from any person who wishes to speak for or against the application, subject to any limitations herein.

The Alcohol Regulatory Authority shall have the authority to place time limits on each speaker and limit or prohibit repetitive testimony.

Appeals of the Alcohol Regulatory Authority may be appealed to the Kaw Nation Tribal Court.

#### **Section 4.4    Classes of Licenses.**

The Alcohol Regulatory Authority shall have the authority to issue the following classes of Alcoholic Beverage Licenses and any additional classes of Alcoholic Beverage License as it may determine necessary for the benefit of the Nation so long as such Licenses are in compliance with Tribal, Federal and State law:

- A. **“Retail Sprints License”** authorizing the Licensee to Purchase Wine or Spirits from a Wine and Spirits Wholesaler, to purchase Beer from a Beer distributor or from the holder of a small brewer self-distribution License, and to sell same on the Licensed Premises in such containers to consumers for off-Premises consumption only and not for resale.
  
- B. **“Retail Beer and Wine License”** authorizing the Licensee to purchase Beer from a Beer distributor, or from the holder of a small brewer self-distribution License and/or purchase Wine from a Wine and Spirits Wholesaler or a small farm Winemaker who is permitted and has elected to self-distribute as provided in Article XXVIII A of the Oklahoma Constitution; and to sell same on the Licensed Premises in such containers to consumers for off-Premises consumption only and not for resale. Provided, no holder of a Retail Beer

and Wine License may sell a malt Beverage with Alcohol Beverage volume in excess of eight and ninety-nine/one hundredths percent (8.99%).

- C. “**Mixed Beverage License**” authorizing the Licensee to purchase Alcohol, Spirits, Beer and/or Wine in retail containers from the holder of a Wine and Spirits Wholesaler and Beer distributor License as specifically provided by law; and to sell, offer for Sale and possess Mixed Beverages for on-Premises consumption only; provided, the holder of a Mixed Beverage License issued for an establishment which is also a restaurant may purchase Wine directly from a Winemaker and Beer directly from a small brewer who is permitted and has elected to self-distribute as provided in Article XXVIII A of the Oklahoma Constitution.

Sales and service of Mixed Beverages by holders of Mixed Beverage Licenses shall be limited to the Licensed Premises of the Licensee unless the holder of the Mixed Beverage License also obtains a caterer License or a Mixed Beverage/caterer combination License. A Mixed Beverage License shall only be issued where the Sale of Alcoholic Beverages by the individual drink for on-Premises consumption has been authorized. A separate License shall be required for each place of business.

- D. “**On Site Beer and Wine License**” authorizing the Licensee to purchase Beer and Wine in retail containers from the holder of a wholesaler, Beer distributor, small brewer self-distribution or brewpub self-distribution License or as specifically provided by law; and to sell, offer for Sale and possess Beer and Wine for on-site consumption only; provided, the holder of an on-site Beer and Wine License issued for an establishment which is also a restaurant may purchase Wine from a Winemaker who is permitted and has elected to self-distribute as provided in Article XXVIII A of the Oklahoma Constitution. Sales and service of Beer and Wine by holders of on-site Beer and Wine Licenses shall be limited to the Licensed Premises of the Licensee unless the holder of the on-site Beer and Wine License also obtains a caterer License. An on-site Beer and Wine License shall only be issued where

the Sale of Alcoholic Beverages by the individual drink for on-site consumption has been authorized. A separate License shall be required for each place of business. No Spirits shall be stored, possessed or consumed on the Licensed Premises of an on-site Beer and Wine License, unless the Premises also has a Mixed Beverage License.

E. **“Caterer License”** authorizing the Licensee to sell Mixed Beverages for on-Premises consumption incidental to the Sale or distribution of food at particular functions, occasions or events which are temporary in nature. A Caterer License shall not be issued in lieu of a Mixed Beverage License. A Caterer License shall only be issued where the Sale of Alcoholic Beverages by the individual drink for on-site consumption has been authorized. A separate License shall be required for each place of business.

F. **“Special Event License”** A Special Event License may be issued to an organization, association or nonprofit corporation organized for political, fraternal, religious or social purposes. The holder of a Special Event License is authorized to sell and distribute Alcoholic Beverage on the Premises for which the License is issued. The Alcohol Regulatory Authority shall promulgate regulations governing the application for and the issuance of Special Event Licenses. The restrictions and rules which apply to the Sale of Mixed Beverages on the Premises of a Mixed Beverage Licensee also apply to the Sale of such Beverages under the authority of a Special Event License. Any act which if done on the Premises of a Mixed Beverage Licensee would be a ground for revocation or suspension of the Mixed Beverage License is a ground for revocation or suspension of a Special Event License. No Special Event License may be issued for any Premises already Licensed by the Alcohol Regulatory Authority.

G. **“Employee License”** authorizing the holder thereof to work in a Licensed Retail Spirits, Retail Wine or Retail Beer establishment, Mixed Beverage establishment, Beer and Wine establishment, or any establishment where Alcohol or Alcoholic Beverages are sold, Mixed or served. Persons employed by a Mixed Beverage, On-Site Beer and Wine, Retail Wine, or Retail Beer, Licensee who do not participate in the service, mixing or Sale of Mixed Beverages shall not be required to have an Employee License. Provided, however, that a manager employed by a Mixed Beverage Licensee shall be required to have an Employee License whether or not the manager participates in the service, mixing or Sale of Mixed Beverages. Applicants for an Employee License must be at least eighteen (18) years of age and have a health card issued by the county in which they are employed, if the county issues such a card; provided, the provisions of this section shall not be construed to permit any person under twenty-one (21) years of age to be employed to sell Spirits. Employees of a Licensee holding a Special Event, or Caterer License, shall not be required to obtain an Employee License. Persons employed by a hotel Licensee who participate in the stocking of hotel room mini-bars or in the handling of Alcoholic Beverages to be placed in such devices shall be required to have an Employee License. As a prerequisite to the issuance of an Employee License, not later than fourteen (14) days after initial licensure, the first-time Applicant shall be required to have successfully completed a training program conducted by the ABLE Commission, or by another entity approved by the ABLE Commission, including an in-house training program conducted by the employer. Proof of training completion shall be made available for inspection by the ABLE Commission at the business location employing the Licensee. The failure of an Employee Licensee to comply with this section may constitute cause for termination of employment.

H. **“Mixed Beverage/Caterer Combination License”** A Mixed Beverage/caterer combination License shall authorize the holder thereof to purchase or sell Mixed Beverages

as specifically provided by law for the holder of a Mixed Beverage License or a caterer License. All provisions of the Oklahoma Alcoholic Beverage Control Act applicable to Mixed Beverage Licenses or caterer Licenses, or the holders thereof, shall also be applicable to Mixed Beverage/caterer combination Licenses or the holders thereof, except where specifically otherwise provided. A Mixed Beverage/caterer combination License shall only be issued in counties of this State where the Sale of Alcoholic Beverages by the individual drink for on-Premises consumption has been authorized. A separate License shall be required for each place of business.

#### **Section 4.5    Revocation of License.**

The Alcohol Regulatory Authority may initiate an action to revoke a License whenever it is brought to the attention of the Alcohol Regulatory Authority that a Licensee:

- A. has materially misrepresented facts contained in any License application;
- B. is not in compliance with this Ordinance or any other Tribal, County, State or Federal laws material to the issue of Alcohol licensing;
- C. has failed to comply with any condition of a License, including failure to pay taxes on the Sale of Alcoholic Beverages or failure to pay any fee required by the Alcohol Regulatory Authority;
- D. has had a verdict, or judgment entered against, or has had a plea of nolo contendere entered by any of its officers, directors, managers or any employees with primary responsibility over the Sale of Alcoholic Beverages, as to any offense under Tribal, County, Federal or State laws prohibiting or regulating the Sale, use, or possession, of Alcoholic Beverages;

E. has failed to take reasonable steps to correct objectionable conditions constituting a nuisance on the Premises or location designated in the License, or any adjacent area under their control, within a reasonable time after receipt of a notice to make such corrections has been mailed or personally delivered by the Alcohol Regulatory Authority;

F. has had their Oklahoma Alcohol License suspended or revoked; or

G. has sold Alcoholic Beverage(s) to any person under the Legal Age of twenty-one (21) years.

Revocation proceedings shall comply with the requirements of this Ordinance stated below. Such revocation proceedings held on any complaint shall be held under such rules and regulations as the Alcohol Regulatory Authority may prescribe.

#### **Section 4.6 Revocation Proceedings on Revocation of License.**

The Alcohol Regulatory Authority, shall give ten (10) days' notice to the person holding the License, stating that the License will be revoked and the reason for the revocation. The Licensee must respond to the Alcohol Regulatory Authority via letter within those ten (10) days for any reconsideration. If there is a response, the License will be suspended until the Alcohol Regulatory Authority makes a final determination. The Alcohol Regulatory Authority shall review any response and shall make a final determination within ten (10) business days on whether to revoke the License. Any appeals on the final decision of the Alcohol Regulatory Authority to revoke a License shall be made in the Tribal Court.

#### **Section 4.7 Transferability of Licenses.**

Alcoholic Beverage Licenses shall be issued to a specific Licensee for use at a single Premises or location (business enterprise) and shall not be transferable for use by any other Premises or location. Separate Licenses shall be required for each of the Premises of any

Licensee having more than one Premises or location where the Sale, distribution, or manufacture of Alcoholic Beverages may occur.

**Section 4.8 Posting of License.**

Every Licensee shall post and keep posted its License(s) in a prominent and conspicuous place(s) on the Premises or location designated in the License. Any License posted on a Premises or location not designated in such License shall not be considered invalid and shall constitute a separate violation of this Ordinance.

**Section 4.9 Specification of Premises.**

Each application shall specify the Premises where the manufacture, Wholesale, or retail Sale of Alcohol will occur, and such Premises shall be managed by the person specified on such application.

**ARTICLE V- FEES**

**Section 5.1 License and Filing Fees.**

Licensing and filing fees may be set and amended from time to time by official action of the Alcohol Regulatory Authority in Regulations.

**ARTICLE VI- TAXATION**

**Section 6.1 Tribal Excise Tax Imposed Upon Distribution of Alcohol.**

- A. Tribal Excise Tax. The Tribal Council shall by resolution, include a provision for the taxing of Sales of Alcohol Beverages to the consumer or purchaser. Such tax shall be determined by the Alcohol Regulatory Authority.
  
- B. Added To Retail Price. The excise tax levied hereunder shall be added to the retail selling, price of Alcoholic Beverages sold to the ultimate consumers.



## **Section 6.2 Taxes Due.**

All taxes collected on the Sale of Alcoholic Beverages under this Ordinance are due to the Kaw Nation Tax Commission from a Licensee on the fifteenth (15) day of the month following the end of the month for which taxes are due.

## **Section 6.3 Delinquent Taxes.**

Past due taxes shall accrue interest at the rate determined by the Kaw Nation Tax Commission.

## **Section 6.4 Reports.**

Along with the payment of taxes imposed hereby, the Licensee shall submit a monthly report and accounting of all income from the Sale, distribution, and or manufacture of Alcoholic Beverages within Tribal Lands, and for all taxes collected under this Ordinance to the Kaw Nation Tax Commission.

## **Section 6.5 Audit.**

All Licensees are subject to the review or audit of their books and records relating to the Sale of Alcoholic Beverages hereunder by the Alcohol Regulatory Authority. Such review or audit may be performed periodically by Alcohol Regulatory Authority's agents or employees at such times as in the opinion of the Alcohol Regulatory Authority such review or audit is appropriate to the proper enforcement of this Ordinance.

# **ARTICLE VII- POWERS OF ENFORCEMENT**

## **Section 7.1 Alcohol Regulatory Authority.**

In furtherance of this Ordinance, the Alcohol Regulatory Authority shall have exclusive authority to administer and implement this Ordinance and shall have the following powers and duties hereunder:

- A. To adopt and enforce rules and regulations governing the Sale, manufacture, distribution, and possession of Alcoholic Beverages within the Tribal Lands of the Kaw Nation;

- B. To employ such persons as may be reasonably necessary to perform all administrative and regulatory responsibilities of the Alcohol Regulatory Authority hereunder. All such employees shall be employees of the Tribe;
- C. To issue Licenses permitting the Sale, manufacture, distribution, and possession of Alcoholic Beverages within the Tribal Lands;
- D. To give reasonable notice and to hold hearings on violations of this Ordinance, and for consideration of the issuance or revocation of Licenses hereunder;
- E. To deny applications and renewals for Licenses and revoke issued Licenses as provided in this Ordinance;
- F. To bring such other actions as may be required to enforce this Ordinance;
- G. To prepare and deliver such reports as may be required by law or regulation; and
- H. To collect taxes, fees, and penalties as may be required, imposed, or allowed by law or regulation, and to keep accurate books, records, and accounts of the same.

**Section 7.2 Right of Inspection.**

Any Premises or location of any commercial enterprise Licensed to manufacture, distribute, or sell Alcoholic Beverages pursuant to this Ordinance shall be open for inspection by the Alcohol Regulatory Authority for the purpose of insuring the compliance or noncompliance of the Licensee with all provisions of this Ordinance and any applicable Tribal Laws or Regulations.

### **Section 7.3 Limitation on Powers.**

In the exercise of its powers and duties under this Ordinance, agents, employees, or any other affiliated persons of the Alcohol Regulatory Authority shall not, whether individually or as a whole:

- A. Accept any gratuity, compensation, or other thing of value from any Alcoholic Beverage Wholesaler, retailer, or distributor, or from any Applicant or Licensee; or
- B. Waive the sovereign immunity of the Kaw Nation, or of any agency, commission, or entity thereof without the express written consent by resolution of the Tribal Council of the Kaw Nation.

## **ARTICLE VIII- RULES, REGULATIONS, AND ENFORCEMENT**

### **Section 8.1 Public Conveyance.**

Any person engaged in the business of carrying passengers for hire, and every agent, servant, or employee of such person, who shall knowingly permit any person to consume any Alcoholic Beverage in any such public conveyance shall be in violation of this Ordinance.

### **Section 8.2 Age of Consumption.**

No person under the Legal Age of twenty-one (21) years may possess or consume any Alcoholic Beverage on Tribal lands, and any such possession or consumption shall be in violation of this Ordinance.

### **Section 8.3 Serving Underage Person.**

No person shall sell or serve any Alcoholic Beverage to a person under the age of twenty-one (21) or permit any such person to possess or consume any Alcoholic Beverages on the Premises or on any Premises under their control. Any Licensee violating this section shall be guilty of a separate violation of this Ordinance for each and every Alcoholic Beverage sold or served and or consumed by such an underage person.

#### **Section 8.4 False Identification.**

Any person who purchases or who attempts to purchase any Alcoholic Beverage through the use of false, or altered identification that falsely purports to show such person to be over the Legal Age of twenty-one (21) years shall be in violation of this Ordinance.

#### **Section 8.5 Documentation of Age.**

Any seller or server of any Alcoholic Beverage shall be required to request proper and satisfactory documentation of age of any person who appears to be thirty-five (35) years of age or younger. When requested by a seller or server of Alcoholic Beverages, every person shall be required to present proper and satisfactory documentation of the bearer's age, signature, and photograph prior to the purchase or delivery of any Alcoholic Beverage. For purposes of this Ordinance, proper and satisfactory documentation shall include one or more of the following:

- A. Driver's License or personal identification card issued by any State department of motor vehicles or Tribal or Federal government agency showing birthdate;
- B. United States active duty military credentials; or
- C. Passport.

Any seller, server, or person attempting to purchase an Alcoholic Beverage, who does not comply with the requirements of this section shall be in violation of this Ordinance and subject to civil penalties, as determined by the Alcohol Regulatory Authority.

#### **Section 8.6 General Penalties.**

Any person or commercial enterprise determined by the Alcohol Regulatory Authority to be in violation of this Ordinance, including any lawful regulation promulgated pursuant thereto, shall be subject to a civil penalty as adopted by the Alcohol Regulatory Authority for each such violation, except as provided herein. The Alcohol Regulatory Authority may adopt by resolution a separate written schedule for fines for each type of violation, taking into account the seriousness

and threat the violation may pose to the general public health and welfare. The civil penalties provided for herein shall be in addition to any criminal penalties that may be imposed under any other Tribal, Federal, or State laws.

**Section 8.7 Initiation of Action.**

Any violation of this Ordinance shall constitute a public nuisance. The Alcohol Regulatory Authority may initiate and maintain an action in Tribal Court to abate and permanently enjoin any nuisance declared under this Ordinance. Any action taken under this section shall be in addition to any other civil penalties provided for in this Ordinance. The Alcohol Regulatory Authority shall not be required to post any form of bond in such action.

**Section 8.8 Contraband; Seizure; Forfeiture.**

- A. All Alcoholic Beverages held, owned, or possessed within Tribal Lands by any person, commercial enterprise, or Licensee operating in violation of this Ordinance are hereby declared to be contraband and subject to seizure and forfeiture to the Tribe.
- B. Seizure of contraband as defined in this Ordinance shall be done by the Alcohol Regulatory Authority, with the assistance of law enforcement upon request, and all such contraband seized shall be inventoried and maintained by the Alcohol Regulatory Authority pending a final order of the Tribal Court. The owner of the contraband seized may alternatively request that the contraband seized be sold and the proceeds received therefrom be maintained by law enforcement pending a final order of the Tribal Court. The proceeds from such a Sale are subject to forfeiture in lieu of the seized contraband.
- C. Any complaint regarding the seizure or forfeiture of contraband shall be heard in Tribal Court.

## **ARTICLE IX- NUISANCE AND ABATEMENT**

### **Section 9.1 Nuisance.**

Any room, house, building, vehicle, structure, Premises, or other location where Alcoholic Beverages are sold, manufactured, distributed, bartered, exchanged, given away, furnished, or otherwise possessed or disposed of in violation of this Ordinance, or of any other Tribal, Federal, or State laws related to the transportation, possession, distribution or Sale of Alcoholic Beverages, and including all property kept therein, or thereon, and used in, or in connection with such violation is hereby declared to be a nuisance upon any second or subsequent violation of the same.

### **Section 9.2 Action to Abate Nuisance.**

Upon a determination by the Alcohol Regulatory Authority that any such place or activity is a nuisance under any provision of this Ordinance, the Tribe or the Alcohol Regulatory Authority may bring a civil action in the Tribal Court to abate and to perpetually enjoin any such activity declared to be a nuisance. Such injunctive relief may include a closure of any business or other use of the property for up to one (1) year from the date of the such injunctive relief, or until the owner, lessee or tenant shall: (i) give bond set by the Tribal Court and be conditioned that any further violation of this Ordinance or other Tribal laws will result in the forfeiture of such bond; and (ii) pay all fines, costs and assessments against him/her/it. If any condition of the bond is violated, the bond shall be forfeited and the proceeds recoverable by the Alcohol Regulatory Authority through an order of the Tribal Court. Any action taken under this section shall be in addition to any other civil penalties provided for in this Ordinance.

## **ARTICLE X- REVENUE AND REPORTING**

### **Section 10.1 Use and Appropriation of Revenue Received.**

All fees, taxes, payments, fines, costs, assessments, and any other revenues collected by the Kaw Nation Tax Commission under this Ordinance, from whatever sources, shall be expended first for the administrative costs incurred in the administration and enforcement of this Ordinance.

Any excess funds shall be subject to and available for appropriation by the Tribal Council to the Tribe.

**Section 10.2 Audit.**

The Alcohol Regulatory Authority and its handling of all funds collected under this Ordinance is subject to review and audit by the Tribe as part of the annual financial audit of the Alcohol Regulatory Authority.

**Section 10.3 Reports.**

The Alcohol Regulatory Authority shall submit to the Kaw Nation Tax Commission a monthly report and accounting of all fees, taxes, payments, fines, costs, assessments, and all other revenues collected and expended pursuant to this Ordinance.

**ARTICLE XI- MISCELLANEOUS**

**Section 11.1 Liability for Unpaid Amounts Due to Vendors or Authorities.**

The Tribe shall have absolutely no legal responsibility for any amounts owed by a Licensee to a Wholesale supplier or any other person, including Federal or State regulatory authorities.

**Section 11.2 Other Business by Operator.**

A Licensee may conduct another business simultaneously with the Sale of Alcohol and/or Alcoholic Beverages, so long as such additional business complies with Tribal, Federal, County, or State law. Said additional business may be conducted on the same Premises, but the Licensee shall be required to maintain subsidiary books of account to insure accountability of Alcohol and/or Alcoholic Beverage Sales and other separate business operations.

**Section 11.3 Tribal Liability and Credit.**

Licensees are forbidden to represent or give the impression to any supplier or person with whom he or she does business that he or she is an official representative of the Tribe or the Alcohol Regulatory Authority authorized to pledge Tribal credit or financial responsibility for any of the expenses of his or her business operation. The Licensee shall hold the Kaw Nation

harmless from all claims and liability of whatever nature. The Alcohol Regulatory Authority shall revoke the License related to any Premises if said Premises is not operated in a businesslike manner or if it does not remain financially solvent or does not pay its operating expenses and bills before they become delinquent.

#### **Section 11.4 Insurance.**

The Licensee shall maintain at his or her expense adequate insurance covering liability risk as determined by Regulations adopted by the Alcohol Regulatory Authority.

#### **Section 11.5 Audit and Inspection.**

All of the books and other business records of the Licensed business shall be available for inspection and audit by the Alcohol Regulatory Authority or its authorized representative at any reasonable time.

#### **Section 11.6 Payment of Tax; Reports; Bonding.**

The tax, together with financial reports showing all Sales of Alcohol shall be remitted to the Kaw Nation Tax Commission monthly unless otherwise specified, in writing, by the Alcohol Regulatory Authority. The Alcohol Regulatory Authority may require a Licensee to furnish a satisfactory bond to the Tribe in an amount to be specified by the Alcohol Regulatory Authority guaranteeing his or her payment of taxes provided herein.

#### **Section 11.7 Violation – Penalties.**

Any person violating the Ordinance shall be guilty of a civil offense and subject to a fine set by the Alcohol Regulatory Authority. Any person who violates the provisions set forth herein shall forfeit all of the Alcohol on the Premises. The Alcohol Regulatory Authority shall be empowered to seize all forfeited Alcohol. Specific fines shall be set by the Alcohol Regulatory Authority and may be amended from time to time by official action of the Alcohol Regulatory Authority.



**Section 11.8 Severability.**

If any provision of this Ordinance in its application to any person or circumstance is held invalid, the remainder of this Ordinance and its application to other persons or circumstances is not affected.

**Section 11.9 Amendments.**

Any amendments to this Ordinance shall be approved by the Tribal Council and will be effective as of the date approved by the Bureau of Indian Affairs.

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